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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/855,458	05/15/2001	Patrick Denis Lincoln	SRI/4361	9224

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EXAMINER	
SMITH, CAROLYN L	
ART UNIT	**PAPER NUMBER**
1631	

MAIL DATE	DELIVERY MODE
05/08/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action Before the Filing of an Appeal Brief	**Application No.** 09/855,458	**Applicant(s)** LINCOLN ET AL.	
	Examiner Carolyn L. Smith	**Art Unit** 1631	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 30 April 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: *96,98,100 and 102-104*.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

Carolyn L Smith
Examiner
Art Unit: 1631

Continuation of 11. does NOT place the application in condition for allowance because: the 35 USC 102 rejection is maintained.

Applicants summarize claim 96 and argue that the claim term "multiset" is a well understood concept and term of art in mathematics, representing a branch of set theory in which each element of the set has a multiplicity of membership. Applicants provide an example. Applicants further argue explicit significance of multiplicity among symbols representing biological elements is provided by the receipt of the multiset of symbols in the inference engine, as claimed, without reading any limitations from the specification into the claims. These statements are found unpersuasive as the term "multiset" has not been provided a clear and concise definition in the specification, so that it has been interpreted broadly and reasonably to mean more than one set.
Applicants argue that with regard to the Examiner's statement that the specification does not provide a clear and concise definition of "multiset," the term "multiset" as used in the present application has the meaning set forth herein as one skilled in the art would understand based on the well-understood term "multiset," and reinforced by the operators for "multiset" or "set" identified in the next to the last full paragraph on page 3 of the specification. This statement is found unpersuasive as "multiset" is only stated once in the specification (on page 3, as noted above) without a clear and concise definition and is presented as an additional embodiment that is not the main invention as disclosed in the specification.

Applicants argue that they need not disclose what is well-known to those skilled in the art and preferably may omit that which is well-known to those skilled and already available to the public (see, M.P.E.P. § 2164.05(a) citing In re Buchner, 929 F.2d 660,661, 18 USPQ2d 1331, 1332 (Fed. Cir. 1991); Hybritech, Inc. v. Monoclonal Antibodies, Inc., 802 F.2d 1367, 1384, 231 USPQ 81, 94 (Fed. Cir. 1966), cert. denied, 480 U.S. 947 (1987); and Lindemann Maschinenfabrik GMBH v. Amencan Hoist & Derrick Co., 730 F.2d 1452, 1463, 221 USPQ 481,489 (Fed. Cir. 1984). This statement is found unpersuasive as multiset can be interpreted many ways and applicants did not specify in their specification how this term was to be defined. It is noted that one single definition provided by Applicants does not qualify the term as being "well known". Applicants argue that the Examiner improperly attempts to interpret the term as "more than one set" without providing any basis for the interpretation that appears to somehow assume that "multiset" is not a term on its own but rather a contraction of the phrase "multiple sets." This statement is found unpersuasive as a term that is not provided a clear and concise definition in the specification and is not necessarily considered to be "well known" is to be interpreted broadly and reasonably.

Applicants argue in view of the foregoing, Thalhammer-Reyero discloses modeling systems using "sets" but does not teach, show or suggest causing a processor to "receive a multiset of symbols in an inference engine," as recited in claim 96, so that the claimed invention is allowable. This statement is found unpersuasive as Thalhammer-Reyero adequately disclose the "multiset" limitation above as already explained above such that the prior art rejection is maintained.

AU 1631 examiner
5/4/07